



July 8, 2016

The Honorable Thomas E. Wheeler
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Wheeler:

I am writing both to commend the Commission's ongoing work to evaluate competition and consumer choice in the set-top box marketplace, and to raise concerns about the potential effects of the proposed rule on small multi-channel video programming distributors (MVPDs) in my state and across the country.

As you know, Section 629 of the Telecommunications Act of 1996 called on the Federal Communications Commission (FCC) to ensure the competitive availability of the navigation devices used to access video programming. Today, more than 20 years after the law's passage and several attempts by the Commission to increase competition in the set-top box market, the majority of pay-tv consumers must rent proprietary set-top boxes to receive full access to the content they pay for. The market is already moving in the direction of increased choice and innovation, and companies are working to meet the demands of consumers who want to access video content at any time, in any place, on the device of their choosing. However, I agree that more can be done, and am hopeful that with continued consultation with consumers and industry stakeholders, the FCC can address the goals of all parties.

However, I am especially concerned that compliance with the proposed rule could have a disproportionate effect on small MVPDs, and that these businesses have not been provided sufficient information on the expected administrative and technological costs. While I understand that these costs are difficult to estimate because the technological standards will be developed over time, it is important that the FCC work with small MVPDs to address this issue. If the compliance cost is significant, it could create a new barrier to market entry or even force existing companies to close. This effect would run counter to the goal of increasing competition, and could actually decrease consumer choice, especially for those in rural areas.

I urge the Commission to further study the costs of small business compliance and address these concerns, and thank you for your continued work to improve competition and increase consumer choice.

Sincerely,

A handwritten signature in blue ink, reading "Debbie Stabenow". The signature is fluid and cursive, with a horizontal line extending from the end of the name.

Debbie Stabenow
United States Senator



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 7, 2016

The Honorable Debbie Stabenow
United States Senate
731 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Stabenow:

Thank you very much for your letter regarding how the Commission's proceeding for better fostering competition in the set-top box and navigation app marketplace might impact small pay-TV providers. I take your input on this issue seriously and assure you that it will receive careful consideration.

Section 629 of the Communications Act, adopted by Congress in 1996, requires the Commission to promote competition. Yet, unfortunately, the statutory mandate in section 629 is not yet fulfilled. The lack of competition in this market has meant few choices and high prices for consumers. In a recent Rasmussen Report Study, 84 percent of consumers felt their cable bill was too high. One of the main contributing factors to these high prices is the no-option, add-on fee for set-top box rental that is included on every bill, forcing consumers to spend, on average, \$231 in rental fees annually. Even worse, a recent congressional investigation found that the price of most equipment fees is determined by what the market will bear, and not the actual cost of the equipment.¹ With the lack of competition in this market, it should come as little surprise that fees for set-top boxes continue to rise.² Clearly, consumers deserve better.

This February the Commission put out for public comment a proposal that would fulfill the statutory requirement of competitive choice for consumers. This action opened a fact-finding dialog to build a record upon which to base any final decisions. Our record already contains more than 280,000 filings, the overwhelming majority of which came from individual consumers. FCC staff is actively engaged in constructive conversations with all stakeholders—content creators, minority and independent programmers, public interest and consumer groups, device manufacturers and app developers, software security developers, and pay-TV providers of all sizes—on how to ensure that consumers have the competition and choice they deserve. I am hopeful that these discussions will yield straight-forward, feasible and effective rules for all.

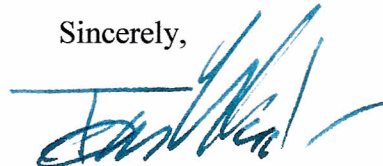
¹ U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS, COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS COMMITTEE, MINORITY STAFF REPORT, INSIDE THE BOX: CUSTOMER SERVICE AND BILLING PRACTICES IN THE CABLE AND SATELLITE INDUSTRY, 17 (Jun. 23, 2016).

² One recent analysis found that the cost of cable set-top boxes has risen 185 percent since 1994 while the cost of computers, televisions, and mobile phones has dropped by 90 percent during that same time period.

I share your goal of ensuring that pay-TV subscribers in all parts of our country can enjoy the benefits of consumer choice without unduly burdening small providers of pay-TV. Recognizing the important role that small pay-TV providers play in many rural communities, the Notice of Proposed Rulemaking (NPRM) adopted in February seeks comment on how this proceeding could affect these providers. Notably, the NPRM proposes to exempt all analog cable systems from new requirements while also seeking comment on the American Cable Association's proposal to exempt all pay-TV providers serving one million or fewer subscribers from any rules. The NPRM further asks how the Commission can ensure that any rules adopted are not overly burdensome to pay-TV providers. We are continuing to engage with all stakeholders on this issue, including small pay-TV providers. Customers of providers of all sizes deserve choice and innovation, and I am confident that we will be able to find a balance that accurately reflects the technology and resources available to truly small providers.

The record we are developing will help us avoid overburdening small pay-TV providers while delivering American consumers meaningful choice. Thank you for your engagement in this proceeding, and I look forward to continuing to work with you on this important consumer issue.

Sincerely,



Tom Wheeler